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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Docket No. 406990)

In re the Application of:

Rakesh Bhakta

Serial No.: 10/040,603

Filed: January 7, 2002

For: Gaming Device with Biometric
System

) Customer No. 27717
)
)
) Art Unit: 2136
)
) Examiner B. Hoffman
)
)
)
)

TO: MAIL STOP: AF
Commissioner for Patent
P.O. Box 1450
Alexandria, Virginia 22313-1450

RESPONSE TO FINAL REJECTION

Dear Sir:


This is in response to the Office Action dated November 7, 2005.

In the November 7, 2005 Office Action, the Examiner pointed out that the 37 C.F.R. §1.131 Affidavit to antedate the primary reference to Bradford et al. "is faulty because of the lack of diligence." The Examiner indicated that there is no showing of any diligence until the filing of the application January 7, 2002. To remedy this deficiency, an additional Declaration is submitted herewith, by Garrettson Ellis, the attorney who prosecuted the instant patent application. Mr. Ellis' Declaration, combined with the previously filed Declaration of the inventor, demonstrates that the invention was conceived prior to Bradford et al.'s July 17, 2001 filing date, and that there was reasonable diligence from prior to the July 17, 2001 filing date until applicant's invention was constructively reduced to practice on January 7, 2002.

Applicant requests that the Declaration be admitted pursuant to 37 C.F.R. §1.116(e). The Declaration is necessary to show applicant's conception prior to the filing date of the primary reference and diligence in constructively reducing the invention to practice. The Declaration of Mr. Ellis was not presented earlier because counsel for applicant did not realize that it was necessary until receiving the November 7, 2005 Office Action.

In view of the foregoing, the Examiner is requested to enter this response and the attached Declaration of Mr. Ellis, to withdraw Bradford et al. as a reference, and to pass the application to issue at an early date.


Respectfully submitted,
SEYFARTH SHAW LLP


George H. Gerstman
Registration No. 22,419
Attorney for Applicant

SEYFARTH SHAW LLP
55 East Monroe Street, Suite 4200
Chicago, Illinois 60603
(312) 269-8567

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Mail Stop: AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on Nov. 28, 2005.


Registered Attorney for Applicant
Date: Nov. 28, 2005